



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
CIVIL RIGHTS BUREAU

January 30, 2023

By Electronic Filing

Hon. Gabriel W. Gorenstein, U.S.M.J.
United States District Court, Southern District of New York
Daniel Patrick Moynihan Courthouse, 500 Pearl Street
New York, New York 10007

Re: *In re: New York City Policing During Summer 2020 Demonstrations,*
No. 20-CV-8924
This Letter is Related to All Cases

Dear Judge Gorenstein:

I am counsel for the People of the State of New York and write on behalf of all non-stayed plaintiffs in these consolidated actions to briefly respond to Defendants' opposition to the letter request to compel certain disciplinary proceeding records. ECF No. 831.¹

As an initial matter, Plaintiffs do not object to Defendants' proposal to: (1) provide all closed APU and DAO files for production by March 3, 2023;² and (2) produce the APU and DAO files that close after today on a rolling basis thereafter, within two weeks of the Law Department receiving those files, so long as the APU and DAO are providing these closed files to the Law Department at a similar pace, *i.e.* within one week of closure. We additionally ask that the Court so-order these commitments.

Regarding Defendants' new arguments as to whether any of the documents to be produced may be withheld, we believe they are unripe. Defendants did not raise privilege assertions at the meet and confer that resulted in the written agreement to produce these disciplinary documents. Further, Defendants have not provided Plaintiffs with a privilege log or separately exhausted the meet and confer process regarding the basis for their privilege assertions after they began their production of APU files. We therefore ask the Court to reject those privilege arguments as premature. Given Defendants' assertions, we also ask the Court to

¹ Although reply letters are not typically permitted, we ask that the Court allow and consider this reply as Defendants' response raised novel arguments.

² Plaintiffs understand that this includes not only the 96 total files that were closed as of December 13, 2022, but additionally all other files that have closed to date.

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order Defendants to produce a privilege log with the APU-DAO productions identifying all withheld and redacted documents contemporaneously with the productions.

Plaintiffs again thank the Court for its time and consideration of Plaintiffs' request.

Respectfully submitted,

s/ Lillian M. Marquez

Lillian Marquez, Assistant Attorney General
Civil Rights Bureau

Office of the New York State Attorney General

Tel: 212-416-6401

Lillian.Marquez@ag.ny.gov

CC: All counsel of record